

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 06 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PEDRO Q. BABAUTA,

Defendant - Appellant.

No. 05-10645

D.C. No. CR-04-00009-ARM
District of the Northern Mariana
Islands Clerk
District Court

ORDER

MAR 13 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

Before: BEEZER and BEA, Circuit Judges.

Appellee's motion to allow late filing of appellee's opposition to appellant's motion for release pending appeal is granted.

Appellant's motion for bail pending appeal is granted. The district court found, and appellee does not contest, that appellant is not likely to flee or to pose a danger to the safety of any other person or the community if released. Appellant has also shown by clear and convincing evidence that the appeal raises a "substantial question" of law or fact that is likely to result in reversal, an order for a new trial, or a sentence that does not include a term of imprisonment, on all counts on which imprisonment has been imposed. *See* 18 U.S.C. § 3143(b); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985).

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The matter is remanded to the district court for the limited purpose of establishing appropriate conditions of release.

The expedited briefing schedule established previously shall remain in effect.